

- (1) Whether the assault of claimant is covered under the Workers Compensation Act.
- (2) Whether claimant is entitled to temporary total disability compensation.
- (3) Whether claimant is entitled to medical treatment with Dr. William Johns.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire record, the Appeals Board finds, for preliminary hearing purposes as follows:

K.S.A. 44-534a, as amended, and K.S.A. 44-551, as amended, limit the Appeals Board right to consider appeals from preliminary hearings. Neither issues numbered 2 and 3 dealing with temporary total disability compensation and claimant's entitlement to medical treatment fall within the parameters of either K.S.A. 44-534a, as amended, or K.S.A. 44-551, as amended. As such, the Appeals Board will not take jurisdiction of these two issues.

The issue as to whether or not this matter is covered by the Workers Compensation Act is an issue over which the Appeals Board can take jurisdiction on an appeal from a preliminary hearing order.

The incident in question is well explained in the Order of the Administrative Law Judge and that factual scenario will not be repeated herein. The Appeals Board finds this incident was the result of horseplay in the workplace. As such this incident did not arise out of claimant's employment with respondent and is noncompensable.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Bryce D. Benedict denying claimant benefits for the incident of February 3, 1997, is hereby affirmed on other grounds.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1997.

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BOARD MEMBER

c: Beth Regier Foerster, Topeka, KS  
Ronald J. Laskowski, Topeka, KS  
Bryce D. Benedict, Administrative Law Judge  
Philip S. Harness, Director